IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 4TH JANUARY 2007 / 14TH PAUSHA 1928

Mat.Appeal.No. 88 of 2006()

AGAINST THE ORDER DATED / / IN IA 757 2005 IN OS.92/2005 of FAMILY COURT, KOTTARAKKARA

.....

PETITIONER: APPELLANT/PETITIONER/DEFENDANT

KUTTAPPAN, S/O.RAJAN,
AGED 52, SHEDULED-CASTE HINDU,
RESIDING AT KARINGOTU, CHARUVILA PUTHEN VEEDU,
AGRICULTUREISTS, KIZHAKKEKARA MURI,
KOTTARAKKARA VILLAGE, KOLLAM DISTRICT.

BY ADV. SRI.T.K.KURIKESU

RESPONDENTS: PLAINTIFF
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1. MINI, AGED 24,
D/O.NANDINI, KARINGLOTTU,
CHARUVILA PUTHEN VEEDU,
KIZHAKKEKKARA MURI, KOTTARAKKARA VILLAGE,
KOTTARAKKARA TALUK, KOLLAM DISTRICT.

2. SINI, AGED 21,
DO. DO. DO.

3. ANU, AGED 18,
DO. DO. DO.

BY ADV. SRI.C.HARIKUMAR
SRI.RAVIDASAN.N.S.

THIS MATRIMONIAL APPEAL HAVING BEEN FINALLY HEARD ON 04/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KURIAN JOSEPH & A.K. BASHEER, JJ.

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Mat.Appeal NO.88 OF 2006

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DATED THIS THE 4th DAY OF JANUARY, 2007.

JUDGMENT

Kurian Joseph, J.

This appeal is directed against the order dated 20.10.2005 in I.A. No.757/2005 in O.S. No.92/2005 on the file of the Family Court, Kottarakara. It is seen from the records that I.A.No.757/2005 filed under Order IX Rule 13 of the Code of Civil Procedure to set aside the ex-parte judgment and decree in O.S.No.92/2005 dated 23.4.2005. It is also seen that I.A.No.757/2005 was proceeded by another application, viz. I.A.No.160/2005 in which the Family Court had passed a conditional order that the ex-parte order would stand set aside on condition that the appellant herein deposited the entire arrears of interim maintenance. Therefore, the court is left without any option but to dismiss I.A.No.757/2005, since the order in I.A.No.160/2005 had to work out.

Thus, the remedy open to the appellant is to challenge the judgment and decree in O.S.No.92/2005, if so advised. Without prejudice to such liberty, this appeal is dismissed.

(Kurian Joseph, Judge.)

(A.K. Basheer, Judge.)

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